

**REPORT - PLANNING COMMISSION MEETING**  
**May 22, 2003**  
**June 26, 2003**

**Project Name and Number:** R-3 Zoning District (PLN2003-00225)

**Applicant:** City of Fremont

**Proposal:** To consider a City-initiated Zoning Text Amendment (ZTA) to create a new Multi-Family Zoning District (R-3) and to revise associated portions of the Fremont Municipal Code for compatibility with the new zoning district; including but not limited to definitions, parking standards, and special provisions.

**Recommended Action:** Recommend Zoning Text Amendment PLN2003-00225 to the City Council.  
Recommend that the City Council direct staff to prepare multi-family design guidelines.  
Recommend that the City Council direct staff to prepare revisions to the City's Development Policies and Landscape Requirements for review and approval.

**Location:** Citywide

**Assessor Parcel Number(s):** N/A

**Area:** N/A

**Owner:** N/A

**Agent of Applicant:** N/A

**Consultant(s):** N/A

**Environmental Review:** A Negative Declaration has been prepared and circulated for this project.

**Existing General Plan:** Various medium, high, and very high density residential designations.

**Existing Zoning:** N/A

**Existing Land Use:** N/A

**Public Hearing Notice:** Public hearing notification is applicable. A Display Ad and Public Hearing Notice were delivered to The Argus on May 6, 2003 and May 7, 2003, respectively, to be published by May 12, 2003. Approximately 325 public hearing notices were mailed as a courtesy to interested parties on May 12, 2003. The item was subsequently continued from the May 22, 2003 Planning Commission hearing to the June 26, 2003 hearing (a "date certain"), for which new noticing is not required.

In addition, a Notice of Preparation of a Draft Negative Declaration was delivered to The Argus on April 16, 2003 to be published on April 21, 2003.

**Executive Summary:** To assist the City of Fremont in meeting its regional housing needs, the City's Housing Element calls for the development of an R-3 Multi-Family Zoning District to be applied on a case-by-case basis to land designated for medium, high, and very high density residential uses in the City's General Plan. The proposed zoning district is intended to increase flexibility for developers while insuring high quality projects within the City, in conformance with typical standards for medium and higher density developments.

Along with the creation of the R-3 Zoning District, accessory modifications to the City's Zoning Code are proposed to insure compatibility. These modifications include, but are not limited to, revising the definitions established in the Zoning Code, revising parking standards, and incorporating new and modified special provisions for miscellaneous uses.

**Background and Previous Actions:** The City's Housing Element of the General Plan, which precipitated the development of the R-3 Zoning District, was adopted by the City Council on May 13, 2003. The current proposal was originally heard by the Planning Commission on May 22, 2003 (minutes enclosed), and was continued to allow staff further time to respond to and incorporate the Planning Commission's comments.

**Project Description:** The proposed Zoning Text Amendment (ZTA) includes both the creation of a new R-3 Multi-Family Residential Zoning District as well as the modification to/creation of various other elements of the Zoning Code, as highlighted below. Specific analyses of the proposed changes are presented later in this report.

#### Article 1. Definitions.

The definition for "efficiency apartment" has been expanded to also include "single room occupancy (SRO) units", as well as to comply with state law. The definition for "density" has been modified to allow higher density levels for these efficiency apartments and SROs. A definition for "live/work units" has been added and "Residential range area" has been removed, as based on the recently approved modifications to the Housing Element and Land Use chapters of the General Plan it is no longer applicable.

Based on public comments and direction from the Planning Commission at the May 22, 2003 public hearing, the definitions for "homeless shelters" have been revised to "short term residency shelters". Articles 7 (R-1), 8 (R-G), 9, (C-O), 10 (C-N), 11 (C-C), 13 (C-T), 14 (C-G), 14.1 (I-L), 15 (I-R), 16 (G-I), and 21.3 (Special Provisions Applying to Miscellaneous Uses) are also edited for consistency to reflect the new name of the shelters. [Because these changes were editorial in nature only, no later discussion is made.] At the same time, the provision disallowing these uses in (F-W) Floodway Combining and (F) Flood Combining Overlay Districts has been struck for conformity with previously approved zoning text amendments. The previously approved ZTA recognized that the buildings constructed inside these overlays were already required by applicable codes to be brought out of any flood level, and therefore restricting uses in these buildings was not necessary.

#### Article 7.5. R-3 Multi-Family Residential District.

This Article creates the new multi-family zoning district.

#### Article 20. Parking, Loading Areas and Regulations Pertaining to Vehicle Storage in Various Zoning Districts.

Residential parking requirements have been modified to reflect the number of bedrooms within the proposed units. Provisions are also included to allow reductions of required parking.

#### Article 21.3. Special Provisions Applying to Miscellaneous Uses.

Provisions pertaining to the construction and conversion of condominium, community apartment, stock cooperative, and townhouse projects have been revised to reflect current building codes and City policies. Provisions applying to live/work units have been created.

### **Project Analysis:**

- **General Plan Conformance:** The proposed R-3 zone would be applied to various parcels with General Plan land use designations of medium, high, and very high residential densities on a case-by-case basis. The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

#### Goal F 8: A diversity of residential, recreational, cultural, employment, and shopping opportunities.

The proposed R-3 zone includes provisions for both live/work style units and ground floor commercial in certain situations through a Conditional Use Permit (CUP). This will allow for a variety of uses integrated with each other while insuring appropriate transitions and buffers remain through the CUP process.

#### Goal H 2: High quality and well-designed new housing of all types throughout the City.

Goal H 3: Housing affordable and appropriate for a variety of Fremont households at all economic levels throughout the City consistent with the Hill Area Initiative of 2002.

Housing Element Implementation Program 17: Incentives “package” for affordable housing developments.

Housing Element Implementation Program 18: Modify parking requirements.

The R-3 zone is designed to facilitate the construction of residential units in varying sizes, locations, and styles. Revising the parking requirements for smaller units will encourage the development of a variety of unit types. Establishing design and development standards and guidelines while still allowing certain modifications through the Site Plan and Architectural Approval process will insure that development remains of a high quality as well as appropriate to the development and neighborhood.

Housing Element Implementation Program 11: New multi-family zoning and minimum density requirements.

The proposed R-3 zoning district is a result of this implementation program. The modifications to the density requirements were made with the adoption of the revised Housing and Land Use Elements, and are reflected in the proposed R-3 Zoning District.

- **Zoning Regulations:** The proposed ZTA, as shown on Exhibit “A”, includes various modifications to the Zoning Code in addition to the creation of the R-3 Multi-Family Residence Zoning District. The fundamental goal of the proposed ZTA is to facilitate and encourage the development of higher density for-sale and rental residential projects within the City by providing clear standards that also allow for flexibility where appropriate. These standards must also be suitable to the type of development likely to occur on the City’s remaining infill sites. Each of the proposed modifications are discussed below:

#### **Article 1. Definitions.**

##### Sec. 8-2107.1. Apartment, efficiency and single room occupancy (SRO) units.

The definitions for “efficiency apartments” and “single room occupancy (SRO) units” have been modified to reference the applicable California Building Code, which establishes minimum sizes (220 square feet), maximum occupancies (two persons), and requires cooking and bathing facilities. Additionally, staff is limiting the maximum size of any unit so classified to 300 square feet. In accordance with this size limitation, a provision that SRO units are counted as one-half a dwelling unit for density purposes will effectively allow development of SROs at twice the generally permitted densities. Staff believes this is appropriate given the smaller size of the units and the resulting smaller physical size of the development relative to the unit count.

##### Sec. 8-2134.3. Density.

The definition for “density” has been modified for compatibility with the above definition.

##### Sec. 8-2161.5. Live/work units.

A definition for live/work units has been added, which also references special provision applying to the use (discussed later).

##### Sec. 8-2185.1. Residential range area.

This definition has been removed, because it is no longer applicable under the recently approved Housing Element and Land Use chapter modifications.

##### Sec. 8-2160.6 Shelter, short term residency, permanent.

##### Sec. 8-2160.6.1 Shelter, short term residency, temporary.

Based on comments by the public and direction from the Planning Commission, the above titles have been changed (from “shelter, homeless”). The technical definitions have not changed, other than for consistency with the proposed wording. Additionally, various other portions of the code, identified earlier, have been modified to reflect this change.

#### **Article 7.5. R-3 Multi-Family Residential District.**

Sec. 8-2750. Purpose.

The purpose of the R-3 zone is to “promote and encourage well planned, suitable, and appropriate multiple-family developments within medium, high, and very high density land use classifications as shown on the general plan land use map while stabilizing and protecting the residential characteristics of the district.” This will be accomplished through the provisions discussed below. Specific ‘purposes’ or ‘intent’ are also provided as appropriate for subsequent sections, based on proposed requirements.

Sec. 8-2751.1. Permitted uses.

Proposed permitted uses are similar to those in the R-G, Garden Apartment Zoning District. These uses primarily include multi-family dwellings, including efficiency apartments and SROs, and single-family and two-family uses on smaller lots.

Sec. 8-2751.2. Accessory uses.

Accessory uses are generally similar to those permitted in the R-G zone.

Sec. 8-2751.3. Conditional uses: Planning commission as reviewing agency.

Live/work units have been added as a conditional use, and special provisions applying to such uses have also been developed (discussed later). Additionally, ground floor commercial uses are permitted with a Conditional Use Permit (CUP) for projects on major streets and three stories tall or greater. Allowing these uses will help create more varied, vibrant neighborhoods. Planning Commission review and approval is required by the CUP in order to insure the appropriateness and compatibility of proposed developments. The remainder of conditional uses is similar to those in the R-G zone.

Sec. 8-2751.4. Zoning administrator uses.

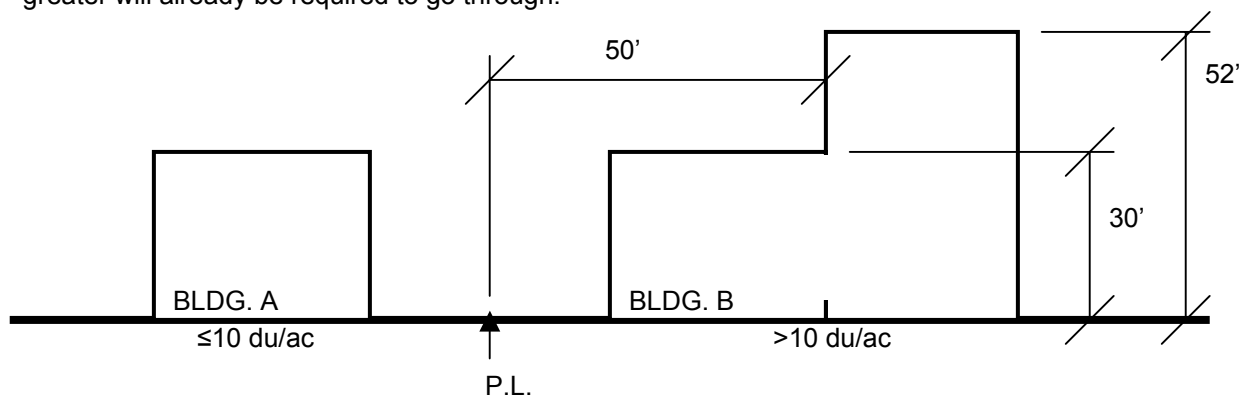
Zoning Administrator permitted uses are generally similar to those in the R-G zone.

Sec. 8-2752. Density standards.

Density is regulated by the underlying General Plan designation of the site, which is reflected by the R-3 Zoning District applied. For instance, for property with a General Plan designation of 11-15 units per acre, the corresponding zone would be R-3-15. The permitted density, again as regulated by the General Plan and reflected by the zoning, would be from the midpoint to the high point of the range, or 13-15 units per acre. Development below this midpoint would only be allowed for sites with environmental constraints or historical resources based on the provisions of the General Plan. Development above this density could take place through density bonuses, e.g. for affordable projects. As also noted previously, efficiency apartments and SROs are only counted as one-half a dwelling unit each for density purposes.

Sec. 8-2753. Height regulations.

Building height is limited to 52 feet, which is generally equivalent to a four-story building. In order to promote compatibility with and privacy for adjacent development, for those portions of parcels within fifty feet of any property with a residential general plan density designation of ten units per acre or less (typically developed as townhouses or small-lot single-family houses), building height is limited to 30 feet. This requirement matches the standard height requirement of 30 feet for single-family developments. The Planning Commission may increase either permitted height through Site Plan and Architectural Approval (SPAA) where appropriate, for which any applicant may apply and for which all projects of eleven units or greater will already be required to go through.

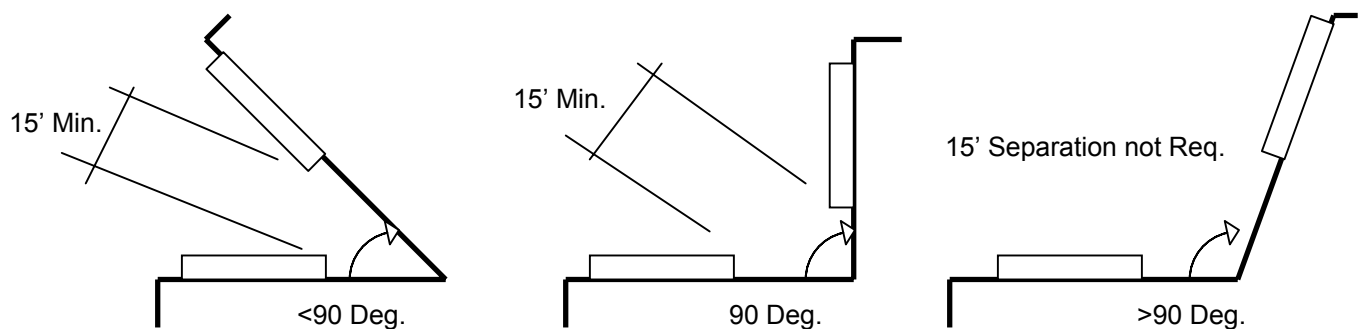


Sec. 8-2754. Lot and siting requirements.

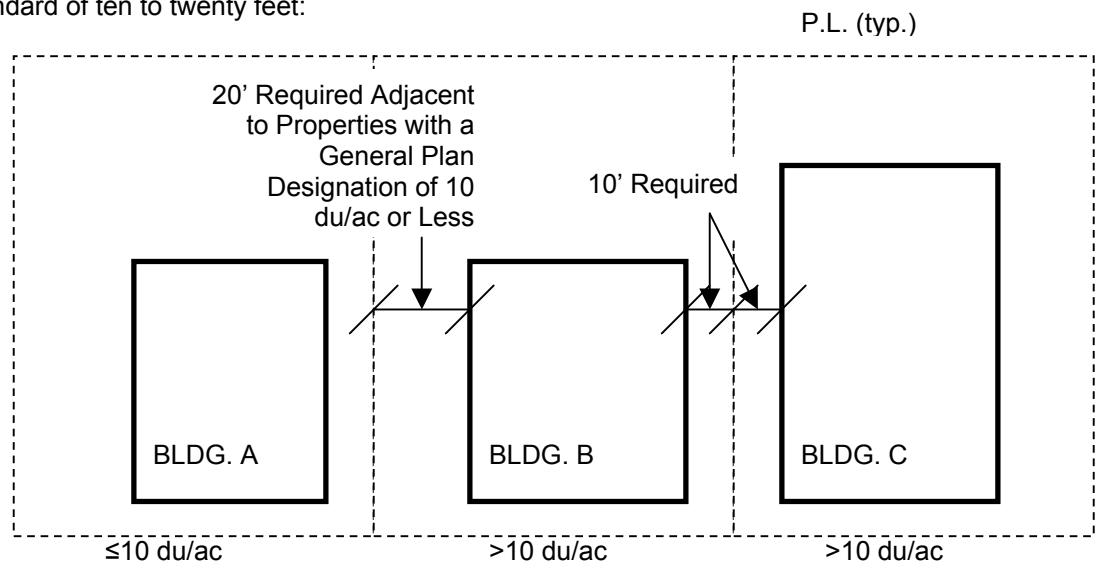
Lot standards are generally reduced for R-3 zones relative to R-G zones, as most infill sites are comparatively smaller. Minimum lot size is 6,000 square feet, minimum lot width is 60 feet, and minimum street frontage is 35 feet. Minimum standards for townhouses are not specified, due to their unique development type and needs. Townhouse proposals will be reviewed on a case-by-case basis through the site plan and architectural approval process for conformance with the remainder of applicable codes and policies.

Siting requirements and standards are also generally reduced from R-G levels, and the Planning Commission may reduce the standards further through SPAA where appropriate. The overall intent of the standards is to encourage the construction of denser developments in a manner appropriate to the neighborhood and more pedestrian-oriented character of the projects. In keeping with the above intent, permitted lot coverage has been increased, and required common open space is now based on the number of units rather than a percentage of the lot. Common open space is defined to include spaces including rooftop gardens, indoor gyms and recreation facilities, pools, and other creative spaces.

As with height requirements, lot and siting requirements have been formed to promote privacy between residents and adjacent properties. For instance, Section 8-2754(d)(3) requires that windows of separate units be separated by at least 15 feet on any walls that are angled 90-degrees or less from each other. This is shown as follows:



Additionally, Section 8-2754(d)(2) requires that those portions of a lot adjacent to another residential lot (not commercial or industrial) with a density of 10 units per acre or less must increase the setbacks from a standard of ten to twenty feet:



As with many other provisions within the R-3 zone, these requirements may be modified through site plan and architectural approval when the approving body finds that the intent of the requirement (stated in Section 8-2754(d)) is met through other means. In the above examples, these other means could include modifying window size, type, placement, and the type of room the window is located in, landscape screening, etc.

Sec. 8-2755. Affordable housing incentives.

Incentives are proposed for those projects that qualify for density bonuses, including increases in lot coverage and reductions in required common open space and parking. The Planning Commission may authorize further incentives through the SPAA process as appropriate. This is in addition to allowing higher densities for efficiency apartments and SROs (discussed previously) and to parking reductions (discussed later).

Sec. 8-2756. Architecture and site design standards.

Based on Planning Commission direction, staff has integrated and clarified architectural and site design standards and guidelines. These requirements range from requiring a compatible architectural style to minimizing large expanses of asphalt and providing special paving treatments and distinct pedestrian systems. Additionally, all projects will be reviewed for conformance under the provisions of SPAA, whether by staff for smaller projects (10 units or less) or by the Planning Commission for larger projects (11 units or greater).

These standards are intended to insure high quality developments within the City, while still allowing developers flexibility within the lot and siting requirements identified. By allowing the flexibility previously identified, along with the broader standards specified within this section, developers will be able to propose unique and varied projects appropriate to the identified site while the City can insure well designed and appropriate projects through the SPAA process and through conformance with the additional architecture and site design standards. Staff is also requesting that the Planning Commission recommend the development of formal multi-family design guidelines for future review and approval.

Sec. 8-2757. Other required conditions.

Rooming and boarding houses, defined as those units having rooms for rent with common access to kitchen and sanitary facilities, are not required to meet maximum density standards. Due to their unique development type, it is possible to allow higher numbers of units without increasing potential impacts.

**Article 20. Parking, Loading Areas and Regulations Pertaining to Vehicle Storage in Various Zoning Districts.**

Sec. 8-22003. Required parking spaces by type of use.

As recommended by Housing Element Implementation Program 18, staff has reviewed overall City parking standards. Staff has reviewed the requirements for other similar cities, as well as information from developers, non-profit and affordable housing advocates, and independent resources such as the American Planning Association (APA) and the Institute of Transportation Engineers (ITE). Based on these reviews, staff is recommending modifying parking requirements for both single-family and multi-family uses to be based on bedroom count rather than unit type, in order to tie parking requirements to anticipated levels of use. This matches the general practice of the majority of municipalities (Fremont is one of only twelve of forty-three municipalities surveyed in the Bay Area that has a 'flat' parking requirement), and responds to the direction provided in the City's adopted Housing Element.

For larger single-family houses (five bedrooms and greater), this results in an increased parking requirement of three spaces versus the current requirement of two. For smaller studio and one-bedroom

multi-family units, the parking requirement is reduced from two to one and one-half spaces, reflecting the lower anticipated demand.

The following table summarizes existing and proposed requirements, and shows Bay Area averages as well as nationwide American Planning Association (APA) survey findings, showing the average range of requirements. The table also shows the resulting parking ratio for a hypothetical one hundred-unit multi-family development\*.

	Existing Requirements**	Proposed Requirements**	Bay Area Averages**	APA Survey Findings**
Single-Family, <5 Bedrooms	2.0	2.0	-	-
Single-Family, 5 Bedrooms +	2.0	3.0	-	-
Multi-Family, Seniors	1.0	1.0	-	-
Multi Family, SRO	2.0	1.0	-	-
Multi-Family, Studio	2.0	1.5	1.5	1.0 to 1.25
Multi-Family, 1-Bedroom	2.0	1.5	1.7	1.0 to 1.5
Multi-Family, 2-Bedroom	2.0	2.0	2.0	1.6 to 2.0
Multi-Family, 3-Bedroom +	2.0	2.0	2.2	1.8 to 2.3
Typical 100-Unit Project Average	2.0	1.75	1.0 to 2.5	-

\*Based on a UC Berkeley study of a hypothetical 100-unit development consisting of 10 studios, 40 one-bedroom units, 40 two-bedroom units, and 10 three-bedroom units. Additional information on this study is enclosed with this report. The overall project average was 1.92 spaces per unit; the median was 1.75 spaces per unit.

\*\*All requirements shown are spaces per unit, and include requirements for guest parking. A (-) indicates no information available.

Additional proposals consistent with the underlying concept of tying required parking to anticipated demand include: higher guest parking for live/work units (1.5 spaces versus existing 0.5 spaces); allowing the Planning Commission to make findings to reduce parking based on proximity to transit, proximity to commercial centers and amenities, anticipated tenancy and use (such as assisted living and/or affordable projects), and availability of on-street parking (on-street parking finding only valid for guest parking); and an automatic 10% reduction for the affordable units in a development that qualifies for a density bonus.

Based on the community meetings with the public and with both private and nonprofit developers, the private developers indicated that they will generally continue to provide two spaces per unit (and often more), because this is what the market (and the financial backers) demands. It was primarily the nonprofit developers who indicated that parking was a constraint, however, they generally indicated that it was one of the largest constraints in constructing affordable units. An example is a nonprofit developer's assisted living project (for people with disabilities) that will soon be proposed. Current standards require two spaces per unit, but the developer has documented evidence that only 3-percent of the project residents will drive. The project will also enter into a formal agreement with the City that it remain affordable and serve the identified tenants. Other than through a Planned District, there is currently no way to reduce the parking requirements for such a project. The proposed ZTA would allow the Planning Commission to make specific findings to reduce parking in these types of situations, which could be done concurrently with other development applications, and would therefore reduce overall review time for these projects and facilitate their development.

Staff has also evaluated the proposal against areas where the City has previously had parking problems. Specifically, in the areas of Mattos and Norris Roads, the City has had issues with an abundance of cars parked on the street, which prevented residents from parking there. The apartment complexes that were causing these problems had provided parking at the rate of one and one half spaces per unit, regardless of unit size (prior to the current City standard). Staff believes that the current proposal, which increases required parking for larger units, addresses the underlying issue of this problem. However, it should be noted that the proposed ZTA, like the current parking requirements, cannot address potential issues of

landlords allowing apartment overcrowding (of residents and/or their vehicles), of residents illegally converting garage space to living space, and of residents using garage space for storage rather than parking. As is currently the case, only enforcement of existing codes and policies can prevent these things from happening, and only on a case-by-case basis.

## **Article 21. Sign Regulations.**

### **Sec. 8-22104. Residential Districts.**

This section has been modified to allow the placement of signs within live/work developments, subject to both conditional use permit and planned sign program review and approval. It has also been modified for consistency to allow identification signs within the R-3 zone as well as the R-G zone.

## **Article 21.3. Special Provisions Applying to Miscellaneous Uses.**

### **Sec. 8-22135. Condominium, community apartment, stock cooperative and townhouse conversion projects.**

This section has been modified to only apply to conversion projects, as new projects will be satisfactorily reviewed for conformance to applicable codes and policies through the Site Plan and Architectural Approval and building permit review process. Additionally, those provisions not consistent with current building codes have been removed.

### **Sec. 8-22135.05. Condominium, community apartment, stock cooperative and townhouse projects; homeowner's association requirements.**

In order to insure that larger projects continue to provide professional management services for the residents of both new construction projects and conversions, a stand-alone requirement for professional HOA management service for projects of 20 units or greater is incorporated.

### **Sec. 8-22147.7. Live/work units.**

Performance standards and special provisions have been included to insure that live/work developments remain compatible with their surroundings. The provisions for the live/work units were generally based on those incorporated into the Benton/Civic Center project and the Old School project, but are only basic requirements that will be applicable to all live/work units. Live/work units will require a CUP as discussed earlier, allowing review of the project for compatibility with the individual, unique areas where they are proposed and allowing for the creation of individual, appropriate conditions of approval at that time.

- **Landscaping and Circulation/Access Policies:** Throughout the development of the R-3 zone, staff has heard from numerous private and non-profit developers that landscaping and engineering standards and requirements can discourage certain infill developments, particularly on smaller lots, due to required driveway widths and setback requirements. Staff is suggesting that the Planning Commission include a recommendation to the City Council that directs staff to review and prepare revisions to overall landscaping and engineering codes and policies as appropriate for later review.
- **Planning Commission Direction:** At the public hearing of May 22, 2003, the Planning Commission provided specific direction and comments on the proposed ZTA, recommending various modifications prior to action. The following is a summary of the Planning Commission's comments (comments from the public are detailed later in this report), and the staff response to each:

1. Allow reductions in required parking where adequate on-street parking is provided.

*Staff response:* This modification has been incorporated into the proposed ZTA, under Section 8-22003(a)(2)(iv). Due to the variety of available parking on-street, the variety of projects that could be proposed, and the variety of parking reductions that could be required, a finding is still proposed to be required to allow the Planning Commission to evaluate proposals on a case-by-case basis, and to allow developers maximum flexibility in their



proposal. This will ultimately result in specific, appropriate reductions only where they (and in amounts that) make sense.

2. Provide and clarify the intent of each of the regulations; avoid “design review by numbers”.

*Staff response:* The proposed format of the ZTA has been substantially modified to address this comment. Each section commences with the ‘intent’ or ‘reasoning’ behind the requirements. This is especially important because most of the requirements may be varied through SPAA. As pointed out by the Planning Commission, by including the intent at the onset, criteria are established for review and comparison against any proposed modification. For example, if a developer wished to propose a height increase above the standard 52-foot requirement, the developer would have to provide information as to how the intent of “promoting a reasonable building scale and relationship of one residence to another, promoting options for privacy for neighboring buildings and properties, and reflecting the general building scale of multi-family development in the city’s neighborhoods” is otherwise being addressed. In or near the Central Business District, it may be more appropriate for taller buildings to be constructed to meet this intent (particularly the second portion), and the developer could thus propose modifications for review and approval through SPAA.

3. Clarify “standards” versus “guidelines” (“shall” versus “should”), and provide the intent of each requirement so that proposals to modify the requirements can be evaluated against the intent.

*Staff response:* Development standards and guidelines are now proposed in two independent Sections, 8-2756(a) and (b), respectively. Definitions for both are included in the initial language under Section 8-2756, and the intent of each (consistent with Planning Commission direction) is included in the language of the individual requirements. Additionally, the standards and guidelines have been expanded and embellished to provide more certainty and direction to future applicants/developers.

4. Minimum dimensions for private open space will result in too standardized a product, and should be revised.

*Staff response:* A generalized intent has been added to this requirement, consistent with Planning Commission direction. Additionally, by stating that the required open space is a “minimum”, and by allowing reductions through SPAA when the developer is able to meet the intent by alternate means (e.g. larger amounts of common open space, additional amenities within the common open space, proximity and access to public or private parks, etc.), staff generally believes that a variety of solutions and amounts of space will be proposed.

5. Live/work provisions are too specific for an ordinance. Requirements should be pared down and specific conditions can then be incorporated as part of any specific project approval.

*Staff response:* Staff has modified the live/work provisions to only include those provisions deemed essential and applicable to units throughout the City. As the Planning Commission noted, because a CUP is required, specific, appropriate conditions of approval can be created for the individual projects through this process.

6. “Homeless shelters” should be renamed “short term residency shelters”.

*Staff response:* This comment was raised during the public comment period, and the Planning Commission concurred with the recommendation. The proposed modification has been incorporated into this ZTA (also discussed later in this report).

7. Short term residency shelters should be a permitted use, rather than a conditional use reviewed by the Planning Commission.

*Staff response:* This comment was also raised during the public comment period, and staff’s response is presented later in this report.

**Environmental Analysis:** A finding is proposed that this project would not have a significant effect on the environment. Accordingly, a draft Negative Declaration has been prepared for consideration by the Planning Commission.

The initial study conducted for the project has evaluated the potential for this project to cause an adverse effect -- either individually or cumulatively -- on wildlife resources. There is no evidence the proposed project would have any potential for adverse effect on wildlife resources. Based on this finding, a Certificate of Fee Exemption will be submitted with the Notice of Determination after project approval, as required by Public Resources Code section 21089 (see attachment to draft Negative Declaration). The Certificate of Fee Exemption allows the project to be exempted from the review fee and environmental review by the California Department of Fish and Game.

**Response from Agencies and Organizations:** Staff held community meetings regarding the development of the R-3 Zoning District on November 21, 2002, December 12, 2002, April 16, 2003, and at a Planning Commission Study Session on April 24, 2003. Throughout these meetings staff received various comments, suggestions, and responses regarding the proposed R-3 zone, which have resulted in the final version of the ZTA presented for Planning Commission recommendation to the City Council.

At the public hearing of May 22, 2003, members of the public spoke and provided written comments about overall processing of applications and the contents of the proposed ZTA. Although the first topic is generally beyond the scope of the current proposal, the second topic consisted of various relevant requests:

1. Remove the requirement for a Conditional Use Permit (CUP) for homeless shelters in the R-3 district, and change the name of homeless shelters to "short term residency shelters".

*Staff response:* Due to the functional differences between these shelters and traditional multi-family (or single-family, or commercial) developments, including the short term, transient nature of the residents and the often temporary establishment of the uses, staff believes that retaining the oversight, noticing, and public hearing requirements of the CUP is appropriate and necessary to insure compatibility with surrounding development. However, based on generally positive experiences with those organizations providing temporary shelters, staff has removed the requirement for temporary shelters to reapply for a CUP at the same location annually; a CUP Amendment will now only be required if the use intensifies or relocates. Staff generally concurs that a more appropriate naming convention could be used, and thus the current proposal includes renaming the use as a "short term residency shelter".

2. Remove the requirement for private open space for affordable units.

*Staff response:* The existing proposal already includes lower requirements for common open space for these units. Staff is hesitant to also reduce (or remove) the requirement for private open space, as continuing to reduce or remove such standards without appropriate review could lead to substandard housing units being provided for these users. Although staff believes that incentives are important for affordable units (and has included various such incentives), it is equally important to insure that the resulting units are compatible to, comparable with, and difficult to distinguish from 'regular' units. It should be noted that for any unit that could address the intent of the requirement through other means (e.g. additional common open space, access to public parks, additional other amenities, demonstrated lack of need by the residents, etc.), Section 8-2754(f)(2) does allow for reductions through Site Plan and Architectural Approval.

3. Further reduce parking requirements for affordable units to one space per unit.

*Staff response:* Based on this recommendation and other public and staff discussions and research, the requirement for Single Room Occupancy (SRO) units has been reduced to one space per unit. This is based on the fact that the vast majority of these units are inhabited by single people who only occasionally own cars.

Staff is already proposing a 10% parking reduction for affordable units that qualify for density bonuses, and further reductions could be authorized for those projects that meet any of the four requirements of Section 8-22003(2)(i)-(iv). Given the current, generally auto-oriented City, staff does not believe that a more substantial initial waiver would be appropriate without the opportunity to evaluate the proposal against the identified criteria.

**Enclosures:** Exhibit "A" Zoning Text Amendment  
Initial Study and Draft Negative Declaration  
Existing R-G Zoning District (Informational)  
Planning Commission Minutes, dated May 22, 2003 (Informational)  
Sample of Bay Area Minimum Parking Requirements (Informational)

**Exhibits:** Exhibit "A" Zoning Text Amendment

**Recommended Actions:**

1. Hold public hearing.
2. Recommend the City Council find the initial study has evaluated the potential for this project to cause an adverse effect -- either individually or cumulatively -- on wildlife resources. There is no evidence the proposed project would have any potential for adverse effect on wildlife resources.
3. Recommend the City Council approve draft Negative Declaration with accompanying Certificate of Fee Exemption and find it reflects the independent judgement of the City of Fremont.
4. Find PLN2003-00225 is in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use and Housing Chapters, as enumerated within the staff report.
5. Find the public necessity, convenience and general welfare require the adoption of Zoning Text Amendment PLN2003-00225 because the development of high quality, appropriate residential projects at medium, high, and very high General Plan density levels, in order to meet the needs identified by the City's Housing Element, is not feasible without the creation of an R-3 Zoning District and the modifications to associated portions of the Fremont Municipal Code, as shown in Exhibit "A".
6. Recommend PLN2003-00225 to the City Council in conformance with Exhibit "A" (Zoning Text Amendment).
7. Recommend that the City Council direct staff to prepare multi-family design guidelines for review and approval.
8. Recommend that the City Council direct staff to prepare revisions to the City's Development Policies and Landscape Requirements for review and approval.

**Exhibit "A"**  
**Zoning Text Amendment – PLN2003-00225**  
**R-3 Zoning District ZTA**  
**Citywide**

*[Language proposed to be added is underlined; language proposed to be removed is ~~struck~~.]*

**Section 1:**

Article 1 (Definitions) of Chapter 2 (Zoning), Title VIII (Planning and Zoning) of the Fremont Municipal Code is added to and amended to read as follows:

**ARTICLE 1. DEFINITIONS**

**Sec. 8-2107.1. Apartment, efficiency and single room occupancy (SRO) units.**

"Efficiency apartment" or "single room occupancy (SRO) unit" shall mean a dwelling unit in a multifamily building consisting of not more than one habitable room together with kitchen or kitchenette and sanitary facilities, complying with the provisions of the California Building Code, Section 310.7, as adopted. Such units shall be limited to a maximum of three hundred square feet of floor space per unit; any unit larger than three hundred square feet shall be defined as a dwelling unit. For purposes of general plan density calculations and density bonus allowances, each efficiency apartment or single room occupancy unit shall count as one-half a dwelling unit.

**Sec. 8-2134.3. Density.**

"Density" shall mean the total number of dwelling units within a specific area, divided by the gross acreage of the project site. For purposes of general plan density calculations and density bonus allowances, efficiency apartments or single room occupancy units shall count as one-half a dwelling unit.

**Sec. 8-2161.5. Live/work units.**

"Live/work units" shall mean those units consisting of both commercial and residential components within a single unit, which are used as the primary dwellings and business locations by the occupant(s). Live/work units shall be subject to the provisions specified in Article 21.3. "Home occupation", where the additional use is merely incidental to the primary residential use of the dwelling, is defined elsewhere in this Article.

**~~Sec. 8-2185.1. Residential range area.~~**

~~"Residential range area" shall mean a range wherein the average number of dwelling units per acre may vary within the limits of a numerical range as specified in the general plan. All residential range areas shall include three steps, with the first step being the low end of the range, and the second and third steps being equal increments thereto. The third step shall be considered the high (i.e., top) end of the range.~~

**Sec. 8-2190.6. Shelter, short term residency for the homeless, permanent.**

"Permanent short term residency shelter for the homeless" shall mean a permanent residential facility operated by a provider which provides emergency housing or temporary accommodations year-round to homeless persons and/or families on a not-for-profit basis and which meets the standards for shelters contained in section 8-22160.5 of Article 21.3 of this chapter of the Fremont Municipal Code. The length of time of the temporary accommodations or emergency housing for individual residents shall not exceed a period of six consecutive months within any twelve-month period. A facility under this section does not

include: (i) transitional housing which is made available to homeless persons or families for a duration of six months or longer; or (ii) temporary shelter provided by general relief in the wake of a disaster where assistance by the American Red Cross and/or federal disaster relief program is provided. In some cases a facility under this section would provide support services as well as shelter.

**Sec. 8-2190.6.1. Shelter, short term residency ~~for the homeless~~, temporary.**

"Temporary short term residency ~~shelter for the homeless~~ " shall mean a not-for-profit temporary or emergency housing facility for individuals and families authorized to operate year-round provided no site is used for more than one month at a time and no more than four times during a twelve-month period in accordance with section 8-22160.6 of Article 21.3 of this chapter of the Fremont Municipal Code. A facility under this section does not include: (i) transitional housing which is made available to homeless persons or families for a duration of six months or longer; or (ii) temporary shelter provided by general relief in the wake of a disaster where assistance by the American Red Cross and/or federal disaster relief program is provided. In some cases, a facility under this section would provide support services as well as shelter. The restrictions outlined in this definition shall apply to all temporary short term residency ~~homeless~~ shelters, regardless of the approval date.

**Section 2:**

Article 6. (R-1 Single-Family Residence District) of Chapter 2 (Zoning), Title VIII (Planning and Zoning) of the Fremont Municipal Code is added to and amended to read as follows:

**ARTICLE 6. R-1 SINGLE-FAMILY RESIDENCE DISTRICT**

**Sec. 8-2603. Conditional uses: Planning commission as reviewing agency.**

- (g) Short term residency ~~sShelter for the homeless~~, temporary,<sup>1,3</sup> accessory to a church or other similar religious use, subject to the regulations set forth in Article 21.3 of this chapter, ~~except in an (F-W) or (F) overlay district;~~

**Section 3:**

Article 7. (R-2 One- and Two-Family Residence District) of Chapter 2 (Zoning), Title VIII (Planning and Zoning) of the Fremont Municipal Code is added to and amended to read as follows:

**ARTICLE 7. R-2 ONE- AND TWO-FAMILY RESIDENCE DISTRICT**

**Sec. 8-2703. Conditional uses: Planning commission as reviewing agency.**

- (g) Short term residency ~~sShelter for the homeless~~, temporary,<sup>1,3</sup> accessory to a church or other similar religious use, subject to the regulations set forth in Article 21.3 of this chapter, ~~except in an (F-W) or (F) overlay district;~~

**Section 4:**

Article 7.5 (R-3 Multi-Family Residence District) of Chapter 2 (Zoning), Title VIII (Planning and Zoning) of the Fremont Municipal Code is added to and amended to read as follows:

**ARTICLE 7.5. R-3 MULTI-FAMILY RESIDENCE DISTRICT**

§ 8-2750. Purpose.

§ 8-2751.1. Permitted uses.

§ 8-2751.2. Accessory uses.

§ 8-2751.3. Conditional uses: Planning commission as reviewing agency.

§ 8-2751.4. Zoning administrator uses.

- § 8-2752. Density standards.
- § 8-2753. Height regulations.
- § 8-2754. Lot and siting requirements.
- § 8-2755. Affordable housing incentives.
- § 8-2756. Architecture and site design standards and guidelines.
- § 8-2757. Other required conditions.

**Sec. 8-2750. Purpose.**

To promote and encourage well planned, suitable, and appropriate multiple-family developments within medium, high, and very high density land use classifications as shown on the general plan land use map, while stabilizing and protecting the residential characteristics of the district. To promote, insofar as compatible with the intensity of existing and future land use, a suitable environment for multi-family living to provide for the diverse needs of the residents of the city, and to allow developers the flexibility necessary to accomplish such goals.

**Sec. 8-2751.1. Permitted uses.**

The following permitted, accessory, zoning administrator, and conditional use regulations are intended to create and maintain higher density residential neighborhoods. At the same time, they conditionally allow for live/work units, ground floor commercial uses, and other nonresidential uses but not to such an extent as to sacrifice the overall residential neighborhood image and character. A broad range of housing types are allowed in the multi-dwelling zones. This range allows for efficient use of land, provides options to increase housing variety and housing opportunities, and promotes affordable and energy-efficient housing. The following are the principal permitted uses in an R-3 district:

- (a) Single-family and two-family dwellings on existing lots of less than six thousand square feet. Requirements for said lots shall be based on R-1-6 provisions, except that single-family and two-family dwellings shall be subject to site plan and architectural review and approval by the development organization;
- (b) Multiple dwellings, including efficiency apartments and single room occupancy units<sup>1</sup>, consisting of ten dwelling units or less, subject to site plan and architectural review and approval by the development organization;
- (c) Multiple dwellings, including efficiency apartments and single room occupancy units<sup>1</sup>, consisting of eleven dwelling units or greater, subject to site plan and architectural review and approval by the planning commission;
- (d) Special residential care facilities;<sup>1</sup> and
- (e) Any other use that the zoning administrator finds, pursuant to the requirements set forth in Article 25.2 of this chapter, is similar in nature, function or operation to permitted uses allowed within this district.

**Sec. 8-2751.2. Accessory uses.**

The following are the accessory uses permitted in an R-3 district:

- (a) Rooming and boarding of not more than two persons;
- (b) Signs complying with the applicable regulations set forth in Article 21 of this chapter;
- (c) Private garages and parking areas;
- (d) Secondary dwellings units<sup>3</sup> on single-family and two-family lots of less than six thousand square feet;

- (e) Small family day care homes; and
- (f) Other accessory uses and buildings customarily appurtenant to a permitted use.

**Sec. 8-2751.3. Conditional uses: Planning commission as reviewing agency.**

The following uses may be permitted with a conditional use permit, provided all other requirements of this chapter are met. The procedure for a conditional use permit shall be as set forth in Article 25 of this chapter:

- (a) Children's nursery schools;
- (b) Licensed nursing homes and convalescent hospitals;
- (c) Meal service facility,<sup>1</sup> accessory to a public or quasi-public use, subject to the regulations set forth in Article 21.3 of this chapter;
- (d) Public and quasi-public buildings and uses of recreational, educational, religious, cultural or public service type; but not including corporation yards, storage or repair yards, and warehouses, except for city-owned and -operated facilities;
- (e) Live/work units,<sup>1, 3</sup>
- (f) Uses permitted or conditionally permitted in neighborhood commercial and office commercial zoning districts as long as the use is located at the first story of a multi-family residential or live/work building three stories tall or greater and located on a parkway, arterial, or collector street;
- (g) Rooming houses and boarding houses<sup>1</sup> for any number of guests.
- (h) Short term residency shelters, permanent<sup>1,3</sup> or temporary<sup>1,3</sup> accessory to a public or quasi-public use, subject to the regulations set forth in Article 21.3 of this chapter;
- (i) Social halls, lodges, fraternal organizations and clubs, and community clubs, except those operated for a profit;
- (j) Elementary and secondary schools; and
- (k) Any other use which the Planning Commission finds is similar in nature, function or operation to conditional uses permitted within the district. The request for such a determination shall be submitted as a "finding application" to the planning commission pursuant to the requirements set forth in Article 25.2 of this chapter.

**Sec. 8-2751.4. Zoning administrator uses.**

The following uses may be permitted with a zoning administrator permit, provided all other requirements of this chapter are met. The procedure for a zoning administrator permit shall be as set forth in Article 25.1 of this chapter:

- (a) Home occupations;<sup>1,3</sup>
- (b) Large family day care homes;<sup>1,3</sup>
- (c) Any other use which the zoning administrator finds is similar in nature, function and operation to zoning administrator uses permitted within the district. The request for such a determination shall be

submitted as a "finding application" to the zoning administrator pursuant to the requirements set forth in Article 25.2 of this chapter.

- (d) Additions to existing single-family and two-family dwellings on lots six thousand square feet or greater may be allowed subject to a zoning administrator permit, when the zoning administrator makes both of the following findings:
- (1) Expansion of a single-family or two-family dwelling on the site will not be detrimental to the property adjacent to the proposed addition; and
  - (2) The city's interest in promoting an increase in the number of dwelling units in the district is outweighed in this case by the city's interest in promoting the improvement or preservation of the existing dwelling(s).

#### **Sec. 8-2752. Density standards.**

The number of dwellings per unit of land, the density, is controlled so that housing can match the availability of public services and the support of commercial areas. The standards also allow the housing density to be matched with the carrying capacity of the land. In addition, the density standards are used as one type of control of overall building bulk. In areas with the highest level of public services, the minimum density standards ensure that the service capacity is not wasted and that the city's housing goals are met. Residential density requirements for multi-family developments in the R-3 zone shall be based on the following table. Proposed densities may fall within the identified permitted density for each zone:

<u>Zone</u>	<u>Permitted Density (units/gross acre)</u>
<u>R-3-10</u>	<u>8.3 to 10</u>
<u>R-3-15</u>	<u>13 to 15</u>
<u>R-3-18</u>	<u>16.5 to 18</u>
<u>R-3-23</u>	<u>20.5 to 23</u>
<u>R-3-27</u>	<u>25 to 27</u>
<u>R-3-35</u>	<u>31 to 35</u>
<u>R-3-50</u>	<u>42.5 to 50</u>
<u>R-3-70</u>	<u>60 to 70</u>

When the density calculation for a parcel results in a fraction of one-half or greater, the density shall be rounded up to the next whole unit; when the density calculation results in a fraction less than one-half, the density shall be rounded down to the next whole unit. For purposes of general plan density calculations and density bonus allowances, efficiency apartments or single room occupancy units<sup>1</sup> shall count as one half a dwelling unit.

Densities below the permitted density shall only be allowed under special circumstances, detailed in the general plan land use and housing chapters, and shall be subject to site plan and architectural approval by the planning commission. Density bonuses shall be allowed subject to the provisions of this code, the general plan, and state law.

#### **Sec. 8-2753. Height regulations.**

The height standards serve several purposes including promoting a reasonable building scale and relationship of one residence to another, promoting options for privacy for neighboring buildings and properties, and reflecting the general building scale of multi-family development in the city's neighborhoods. In order to allow flexibility and to respond to specific site circumstances, the maximum height limit may be modified through site plan and architectural review and approval if the above intent is met.



Maximum height: Fifty-two feet. For those areas of parcels within fifty feet of any property with a general plan density designation of ten units per acre or less: Thirty feet.

#### **Sec. 8-2754. Lot and siting requirements.**

The following standards work together to create desirable residential areas by promoting aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The development standards generally assure that new development will be compatible with the city's character. At the same time, the standards allow for flexibility for new development through site plan and architectural approval when the intent of the standard is met through alternate means. In addition, the regulations provide certainty to property owners, developers, and neighbors about the limits of what is generally allowed. The development standards are generally written for development on flat, regularly shaped lots, other lots could use the flexibility provided to propose alternate, appropriate developments.

The minimum lot size, width, and frontage requirements for new lots insure that development on a lot will in most cases be able to comply with all site development standards. The standards also prevent the creation of very small lots that are difficult to develop at their full density potential. Minimum lot size, width, and frontage requirements are not applicable to townhouse style developments, which have special lot and subdivision needs that will be reviewed on a case-by-case basis through site plan and architectural approval and the tentative map process.

- (a) Minimum lot size. Six thousand square feet, except for townhouses.<sup>1</sup>
- (b) Minimum lot width. Sixty feet, except for townhouses.<sup>1</sup>
- (c) Minimum street frontage. Thirty-five feet, except for townhouses.<sup>1</sup>
- (d) Separation, setback, and yard requirements. The building separation, setback, and yard standards serve several purposes including maintaining light, air, and separation for fire protection and access for fire fighting; encouraging that new development reflect the general building scale and placement of multi-family development in the city's neighborhoods; fostering a desirable pedestrian-oriented environment and neighborhood setting for the area; promoting a reasonable physical relationship between residences; promoting options for privacy for neighboring properties; and providing adequate flexibility through site plan and architectural approval to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity. Unless otherwise specified through site plan and architectural review and approval and meeting the above intent, the following standards shall apply:
  - (1) Front and street side setbacks: Twenty feet, but should be reduced where the reduction fosters a desirable pedestrian-oriented environment or neighborhood setting for the area.
  - (2) Interior side and rear setbacks: Ten feet. Where adjacent to property with a general plan density designation of ten units per acre or less: Twenty feet (garages, carports, sheds, and similar accessory structures are subject to the ten foot setback).
  - (3) Between windows of separate units located on walls angled ninety degrees or less from each other: Fifteen feet.
  - (4) Between parking or circulation areas and a public street right-of-way or private street easement: Fifteen feet.
- (e) Lot coverages. The lot coverage standards, along with height, setback, and other development standards, limit the overall bulk of structures. They assure that larger buildings will not have a footprint that overwhelms adjacent development. The standards may be varied through site plan and architectural approval where this intent is met through other means, where surrounding development

at higher intensities justifies an increase, or where the increase fosters a desirable pedestrian-oriented environment and neighborhood setting for the area. Unless otherwise specified through site plan and architectural review and approval:

Maximum lot coverage: Fifty percent.

- (f) Open space areas. Open space areas shall be provided for the use of all residents within the development. Open space is important to provide areas for use by residents outside of the private units, either outdoor or indoor, to provide a semi-private transition area between private residences and the public domain, and to insure that adequate facilities exist for the use of residents outside of the private units. Open space areas are comprised of common and private open space.
- (1) Common open space. Common open space may include, but is not limited to, rooftop gardens, indoor recreation facilities, landscaped spaces designed for active use, and other creative spaces, and shall be accessible to all residents within the development and provided with amenities or facilities likely to be utilized by anticipated residents, such as swings, pools, barbeques, tables, benches, etc. Common open space may be outdoors or indoors. Unless otherwise specified through site plan and architectural review and approval, common open space shall be provided as follows:
  - a. Common open space shall be provided at the rate of five hundred square feet for multi-family developments up to five units, plus fifty square feet for each additional unit. Common open space area shall have a minimum dimension of fifteen feet; and
  - b. Common open space areas used to satisfy the above area requirement shall not be located within any required setback.
- (2) Private open space areas. Each dwelling unit should have at least one private open space area contiguous to the individual dwelling unit that allows the occupants of the unit the private use of an outdoor space. Unless otherwise specified through site plan and architectural review and approval, private open space shall be provided as follows:
  - a. Balconies (above ground level): Minimum sixty square feet, the least interior dimension of which is six feet; or
  - b. Patios (at ground level): Minimum one hundred square feet, the least interior dimension of which is ten feet.

#### **Sec. 8-2755. Affordable housing incentives.**

The city has an interest in encouraging affordable housing, which can be facilitated by incorporating incentives for affordable units. For any project which qualifies for a density bonus, and for which has been subject to binding agreement with the city or other public agency that it will remain affordable subject to the terms of Article 21.7, the following incentives shall be granted in addition to the density bonus:

- (a) Unless further increased through site plan and architectural review and approval by the planning commission, maximum lot coverage shall be seventy percent;
- (b) Unless further reduced through site plan and architectural review and approval by the planning commission, required common open space area shall be five hundred square feet for multi-family developments up to five units, plus twenty-five square feet for each affordable unit;
- (c) Unless further reduced by the planning commission subject to the provisions of Section 8-22003 of Article 20, parking requirements for the affordable units within the project shall be reduced by ten percent.

**Sec. 8-2756. Architecture and site design standards and guidelines.**

The following development standards and guidelines work together to create desirable residential areas by promoting aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The development standards generally assure that new development will be compatible with the city's character. At the same time, the guidelines allow for flexibility to encourage new development. In addition, the regulations provide certainty to property owners, developers, and neighbors about the limits of what is allowed. All development projects must comply with the development standards (designated with 'shall'). Guidelines (designated with 'should') may be modified through site plan and architectural approval if the alternate designs/means are used to satisfy the intent of the guideline.

(a) Development standards. All new development projects in R-3 zone must comply with the following standards:

1. The architectural design of multiple-family dwellings shall be developed with consideration given to the relationship of any existing and future adjacent development in terms of building heights, mass, texture, and style. Individual projects shall be designed with a specific architectural style to be relevant to and compatible with surrounding development and the neighborhood context.
2. Building facades shall be fully articulated on all sides with high levels of architectural detailing. Varied, durable, and appropriate materials shall be utilized with consideration given to massing and proportion. Fences and walls shall be designed so as to be appropriate to and compatible with project architecture. Chain link fencing is not permitted.
3. To ensure that there is a visual connection between the living area of the residence and the street, to enhance public safety by allowing people to survey their neighborhood from inside their residences, and to provide a more pleasant pedestrian environment by preventing large expanses of blank facades along streets, facades shall not consist primarily of garage doors without variation in setbacks, materials, massing, the incorporation of features such as trees or other landscaping, trellises, etc. At a minimum, shrubs, small trees, vines planted on trellises, or a similar landscape treatment shall be provided between each unit.
4. To insure that there is a physical and visual connection between the living area of the residence and the street, to enhance public safety for residents and visitors and provide opportunities for community interaction, to insure that the pedestrian entrance is visible or clearly identifiable from the street by its orientation or articulation; to insure that pedestrians can easily find the main entrance and so establish how to enter the residence, building entrances shall be emphasized through project architecture, and building facades and entrances shall be oriented to public sidewalks and streets.
5. The following pedestrian standards encourage a safe, attractive, and usable pedestrian circulation system in all developments. They insure a direct pedestrian connection between the street and buildings on the site, and between buildings and other activities within the site. In addition, they provide for connections between adjacent sites, where feasible. Developments shall emphasize pedestrian and bicycle connection locations, designs, and details, both within the project site and within the neighborhood, as follows:
  - a. Systems and facilities for bicycles and other alternate forms of transportation shall be provided, including parking areas, pathways, storage, etc. The systems must connect all adjacent streets to the main entrance. One of the connections should be no longer than the straight line distance from the entrance to the closest sidewalk, or improved right-of-way if there are no sidewalks. It may not be more than 20 feet longer or 120 percent of that straight line distance, whichever is less. The system must connect all buildings on the site, and

provide connections to other areas of the site, such as parking areas, bicycle parking, recreational areas, common outdoor areas, and any pedestrian amenities.

- b. The circulation system shall be hard-surfaced, at least four feet wide. Where the system crosses driveways, parking areas, and loading areas, the system shall be clearly identifiable, through the use of elevation changes, speed bumps, a different paving material, or other similar method. Striping does not meet this requirement. Elevation changes and speed bumps shall be at least 4 inches high. Where the system is parallel and adjacent to an auto travel lane, the system must be a raised path or be separated from the auto travel lane by a raised curb, landscaping or other physical barrier. If a raised path is used it must be at least 4 inches high and the ends of the raised portions must be equipped with curb ramps. The on-site pedestrian circulation system must be lighted to a level where the system can be used at night.
6. Developments shall be designed so as to minimize the number of driveways from public and private streets wherever possible. Shared driveways shall be utilized wherever possible.
7. For townhouse and townhouse style developments, adequate exterior space shall be provided for garbage set-out and pickup such that garages and driveways will not be blocked. Storage space shall also be provided within garages (clear of required parking areas) or other designated areas for trash and recycling materials.
8. All yard areas shall be landscaped, and all landscaped areas shall be kept maintained.
9. Each dwelling unit shall have an enclosed storage closet located within the garage, patio, or deck area, unless an alternative space is approved through site plan and architectural approval. The storage closet shall have a minimum of one hundred cubic feet of storage space.
10. Other than public or private street lights, exterior lighting shall be diffused or concealed in order to prevent illumination of adjoining properties or the creation of objectionable visual impacts on other properties or streets. Lighting, including private street lights, shall be decorative in style and the design shall be appropriate to the project architecture.
- (b) Development guidelines. All new development projects in the R-3 zone must comply with the following guidelines, unless an alternate appropriate proposal is made, reviewed and approved through site plan and architectural approval, to meet the intent of the guideline:
  1. To promote the pedestrian orientation of developments and to insure an aesthetically pleasing front elevation not dominated by automobiles, parking areas should be located to the side, rear, or under the building. Parking should not be located between a building and any public sidewalk or street.
  2. To minimize the amount of perceived paving, expanses of asphalt or concrete paving should be relieved with landscaping features or special accent paving treatments, including but not limited to modular pavers or colored, patterned concrete. These features should be aligned with and designed to reinforce pedestrian and bicycle walkways wherever possible. Raised features or features that serve to calm vehicular traffic are especially desirable.
  3. To insure that townhouse and townhouse-style developments maintain attractive public and private street facades not dominated by garage doors, and to insure that streets are well screened and shaded by street trees wherever possible, townhouse and townhouse-style developments should provide at least one tree at the public or private street elevation for each unit. Adequate planter space and setbacks must be provided for such trees.

4. Common open space should be designed for the needs of the anticipated occupants and should be provided with appropriate amenities to address these needs. Common open space should be contiguous to the maximum extent possible to allow for the highest usability.
5. To promote a desirable front façade and general pedestrian orientation for projects, and to encourage interaction among residents, neighbors, and the public, fences or walls greater than three feet tall should not front public or private streets.
6. To minimize their visibility from any public or private right-of-way and potential negative visual impacts, electrical, telephone, transformer, and other utilities should be placed underground. Any aboveground utilities, including backflow preventers, may only be so located if they are adequately screened by landscaping and/or architectural elements.

**Sec. 8-2757. Other required conditions.**

- (a) Site plan and architectural approval is required for all projects requiring conditional use permits and zoning administrator permits, and single-family, two-family, and multi-family residential dwellings, except home occupations and large-family daycare in existing structures.
- (b) Rooming houses and boarding houses<sup>1</sup> for any number of guests shall not be limited to maximum density standards, but rather the individual project shall be reviewed for compatibility with any existing or future adjacent development in terms of building height and mass as part of the conditional use permit process.

[Notes Applicable to this Article]

<sup>1</sup>Term is defined in Article 1.

<sup>2</sup>Term is elaborated on in Standard Industrial Classification Manual.1

<sup>3</sup>The special regulations of Article 21.3 apply to this use.

**Section 5:**

Article 8 (R-G Garden Apartment Residence District) of Chapter 2 (Zoning), Title VIII (Planning and Zoning) of the Fremont Municipal Code is added to and amended to read as follows:

**ARTICLE 8. R-G GARDEN APARTMENT RESIDENCE DISTRICT**

**Sec. 8-2803. Conditional uses: Planning commission as reviewing agency.**

- (i) Short term residency sShelter for the homeless, permanent,<sup>1,3</sup> or temporary<sup>1,3</sup> accessory to a public or quasi-public use, subject to the regulations set forth in Article 21.3 of this chapter, except in an (F-W) or (F) overlay district;
- (j) Shelter for the homeless, temporary,<sup>1,3</sup> accessory to a public or quasi-public use, subject to the regulations set forth in Article 21.3 of this chapter, except in an (F-W) or (F) overlay district;
- (k) ...
- (l) ...
- (m) ...

**Section 6:**

Article 9 (C-O Administrative Office District) of Chapter 2 (Zoning), Title VIII (Planning and Zoning) of the Fremont Municipal Code is added to and amended to read as follows:

#### **ARTICLE 9. C-O ADMINISTRATIVE OFFICE DISTRICT**

##### **Sec. 8-2903. Conditional uses: Planning commission as reviewing agency.**

(a) *Services:*

- (5) Short term residency sShelter for the homeless, permanent<sup>1,3</sup> or temporary<sup>1,3</sup>, accessory to a public or quasi-public use, subject to the regulations set forth in section 8-22160.5 of Article 21.3 of this chapter, ~~except in an (F-W) or (F) overlay district.~~
- (6) ~~Shelter for the homeless, temporary<sup>1,3</sup>, accessory to a public or quasi-public use, subject to the regulations set forth in section 8-22160.6 of Article 21.3 of this chapter, except in an (F-W) or (F) overlay district.~~

#### **Section 7:**

Article 10 (C-N Neighborhood Commercial District) of Chapter 2 (Zoning), Title VIII (Planning and Zoning) of the Fremont Municipal Code is added to and amended to read as follows:

#### **ARTICLE 10. C-N NEIGHBORHOOD COMMERCIAL DISTRICT**

##### **Sec. 8-21003. Conditional uses: Planning commission as reviewing agency.**

- (h) Short term residency sShelter for the homeless, permanent<sup>1,3</sup> or temporary<sup>1,3</sup>, subject to the regulations set forth in Article 21.3 of this chapter, ~~except in an (F-W) or (F) overlay district.~~
- (i) ~~Shelter for the homeless, temporary<sup>1,3</sup>, accessory to a public or quasi-public use, subject to the regulations set forth in Article 21.3 of this chapter, except in an (F-W) or (F) overlay district.~~
- (j) ...
- (k) ...
- (l) ...

#### **Section 8:**

Article 11 (C-C Community Commercial District) of Chapter 2 (Zoning), Title VIII (Planning and Zoning) of the Fremont Municipal Code is added to and amended to read as follows:

#### **ARTICLE 10. C-C COMMUNITY COMMERCIAL DISTRICT**

##### **Sec. 8-21103. Conditional uses: Planning commission as reviewing agency.**

- (p) Short term residency sShelter for the homeless, permanent<sup>1,3</sup> or temporary<sup>1,3</sup>, subject to the regulations set forth in Article 21.3 of this chapter, ~~except in an (F-W) or (F) overlay district.~~
- (q) ~~Shelter for the homeless, temporary<sup>1,3</sup>, accessory to a public or quasi-public use, subject to the regulations set forth in section 8-22160.6 of Article 21.3 of this chapter, except in an (F-W) or (F) overlay district.~~
- (r) ...

(sr) ...

(ts) ...

(ut) ...

(vu) ...

(wv) ...

(xw) ...

(yx) ...

(zy) ...

(aaz) ...

(bbaa) ...

#### **Section 9:**

Article 13 (C-T Thoroughfare Commercial District) of Chapter 2 (Zoning), Title VIII (Planning and Zoning) of the Fremont Municipal Code is added to and amended to read as follows:

#### **ARTICLE 13. C-T THOROUGHFARE COMMERCIAL DISTRICT**

##### **Sec. 8-21303. Conditional uses: Planning commission as reviewing agency.**

(n) ~~Short term residency s~~Shelter for the homeless, permanent,<sup>1,3</sup> or temporary<sup>1,3</sup>, subject to the regulations set forth in ~~section 8-22160.5 of Article 21.3 of this chapter, except in an (F-W) or (F)~~ overlay district.

~~(o) Shelter for the homeless, temporary,<sup>1,3</sup> accessory to a public or quasi-public use, subject to the regulations set forth in section 8-22160.6 of Article 21.3 of this chapter, except in an (F-W) or (F)~~ overlay district.

(po) ...

(qd) ...

(rq) ...

(sr) ...

#### **Section 10:**

Article 14 (C-G General Commercial District) of Chapter 2 (Zoning), Title VIII (Planning and Zoning) of the Fremont Municipal Code is added to and amended to read as follows:

#### **ARTICLE 14. C-G GENERAL COMMERCIAL DISTRICT**

##### **Sec. 8-21403. Conditional uses: Planning commission as reviewing agency.**

- (d) ~~Short term residency s~~Shelter for the homeless, permanent;<sup>1,3</sup> or temporary<sup>1,3</sup>, subject to the regulations set forth in ~~section 8-22160.5~~ of Article 21.3 of this chapter, ~~except in an (F-W) or (F) overlay district.~~
- (e) ~~Shelter for the homeless, temporary;<sup>1,3</sup> accessory to a public or quasi-public use, subject to the regulations set forth in section 8-22160.6 of Article 21.3 of this chapter, except in an (F-W) or (F) overlay district.~~
- (fe) ...

**Sec. 8-21403.2. Areas designated as retail commercial on the general plan.**

- (b) *Conditional uses: Planning commission as reviewing agency:*
  - (4) ~~Short term residency s~~Shelter for the homeless, permanent;<sup>1,3</sup> or temporary<sup>1,3</sup>, subject to the regulations set forth in ~~section 8-22160.5~~ of Article 21.3 of this chapter, ~~except in an (F-W) or (F) overlay district.~~
  - (5) ~~Shelter for the homeless, temporary;<sup>1,3</sup> accessory to a public or quasi-public use, subject to the regulations set forth in section 8-22160.6 of Article 21.3 of this chapter, except in an (F-W) or (F) overlay district.~~

**Section 11:**

Article 14.1 (I-L Light Industrial District) of Chapter 2 (Zoning), Title VIII (Planning and Zoning) of the Fremont Municipal Code is added to and amended to read as follows:

**ARTICLE 14.1. I-L LIGHT INDUSTRIAL DISTRICT**

**Sec. 8-21414. Conditional uses: Planning commission as reviewing agency.**

- (i) ~~Short term residency s~~Shelter for the homeless, permanent;<sup>1,3</sup> or temporary<sup>1,3</sup>, subject to the ~~limitations~~regulations set forth in Article 21.3 of this chapter, ~~except in an (F-W) or (F) overlay district;~~
- (j) ~~Shelter for the homeless, temporary;<sup>1,3</sup> accessory to a public or quasi-public use, subject to the limitations set forth in Article 21.3 of this chapter, except in an (F-W) or (F) overlay district;~~
- (kj) ...
- (lk) ...
- (ml) ...
- (Am) ...
- (en) ...

**Section 12:**

Article 15 (I-R Restricted Industrial District) of Chapter 2 (Zoning), Title VIII (Planning and Zoning) of the Fremont Municipal Code is added to and amended to read as follows:

**ARTICLE 15. I-R RESTRICTED INDUSTRIAL DISTRICT**

**Sec. 8-21503.1. Conditional uses: Planning commission as reviewing agency.**



- (b) Short term residency s~~Shelter for the homeless, permanent,~~<sup>1,3</sup> or temporary<sup>1,3</sup>, subject to the regulations set forth in Article 21.3 of this chapter, ~~except in an (F-W) or (F) overlay district.~~
- (c) ~~Shelter for the homeless, temporary,~~<sup>1,3</sup> ~~accessory to a public or quasi-public use, subject to the regulations set forth in Article 21.3 of this chapter, except in an (F-W) or (F) overlay district.~~
- (d) ...
- (e) ...
- (f) ...
- (g) ...
- (h) ...
- (i) ...
- (j) ...
- (k) ...
- (l) ...
- (m) ...
- (n) ...
- (o) ...

### Section 13:

Article 16 (G-I General Industrial District) of Chapter 2 (Zoning), Title VIII (Planning and Zoning) of the Fremont Municipal Code is added to and amended to read as follows:

### ARTICLE 16. G-I GENERAL INDUSTRIAL DISTRICT

#### Sec. 8-21603. Conditional uses: Planning commission as reviewing agency.

- (e) Short term residency s~~Shelter for the homeless, permanent,~~<sup>1,3</sup> or temporary<sup>1,3</sup>, subject to the regulations set forth in Article 21.3 of this chapter, ~~except in an (F-W) or (F) overlay district.~~
- (f) ~~Shelter for the homeless, temporary,~~<sup>1,3</sup> ~~accessory to a public or quasi-public use, subject to the regulations set forth in Article 21.3 of this chapter, except in an (F-W) or (F) overlay district.~~
- (g) ...
- (h) ...
- (i) ...
- (j) ...
- (k) ...

(~~lk~~) ...

(~~ml~~) ...

(~~Am~~) ...

(~~en~~) ...

(~~po~~) ...

(~~ep~~) ...

(~~eq~~) ...

(~~sr~~) ...

#### Section 14:

Article 20 (Parking, Loading Areas and Regulations Pertaining to Vehicle Storage in Various Zoning Districts) of Chapter 2 (Zoning), Title VIII (Planning and Zoning) of the Fremont Municipal Code is added to and amended to read as follows:

### ARTICLE 20. PARKING, LOADING AREAS AND REGULATIONS PERTAINING TO VEHICLE STORAGE IN VARIOUS ZONING DISTRICTS

#### Sec. 8-22003. Required parking spaces by type of use.

The number of off-street parking spaces required for each use shall be as stipulated in the following section. In computing the number of off-street parking spaces required, a fractional space of one-half space or more shall be counted as one space.

(a) Residential uses.

(1) Dwellings, single-family, duplexes: ~~--2 covered for each family or dwelling unit.~~

a. ~~Dwellings, single-family (excluding condominiums), with four or fewer bedrooms where parking and exiting movements occur directly from and into private vehicle accessways--2 covered for resident parking, plus 0.5 uncovered for guest parking.~~

b. ~~Dwellings, single-family, with five or more bedrooms--3 covered.~~

(2) ~~Dwellings, multiple apartments (including apartments, condominiums, townhouses, live/work<sup>3</sup> units, rooming and boarding houses<sup>1</sup>, and single room occupancy (SRO) and efficiency<sup>1</sup> units):~~

a. ~~Senior citizen dwellings housing developments<sup>1</sup>, efficiency apartments<sup>1</sup>, single room occupancy units<sup>1</sup> and rooming and boarding houses<sup>1</sup>--0.5 covered spaces per unit for residents plus 0.5 uncovered spaces per unit designated for guest parking only.~~

b. ~~All apartments, including condominiums--2 (1 covered, plus 0.5 uncovered for residents, plus 0.5 uncovered space designated for guest parking only).~~

b. ~~Studio and one-bedroom units--1 covered space per unit for residents plus 0.5 uncovered spaces per unit (1.5 spaces per live/work<sup>3</sup> unit) designated for guest parking only.~~

- c. Two bedroom units and larger--1 covered space per unit for residents plus 0.5 uncovered spaces per unit for residents plus 0.5 uncovered spaces per unit (1.5 spaces per live/work<sup>3</sup> unit) designated for guest parking only.

The planning commission may reduce the parking requirements within section (a)(2) through site plan and architectural approval if, based on evidence provided by the project applicant, it makes one of the following findings:

- i. Due to the use's proximity to alternative transportation infrastructure and service, including but not limited to BART, Amtrak, and other passenger rail services, bus service, or similar, the use is likely to require a lower level of parking than is required by similar projects not proximate to alternative transportation because residents will have viable transportation alternatives available.
- ii. Due to the use's proximity to amenities, and/or due to the desire to create a more pedestrian oriented environment in and around the project site, a reduction in required parking will further the goal of enhancing and strengthening the neighborhood, and, furthermore, that residents will have access to amenities such as shopping, entertainment, and employment without necessitating the use of automobiles.
- iii. Due to the anticipated tenancy, including but not limited to affordable units, senior citizen units, single room occupancy (SRO) and efficiency<sup>1</sup> units, and special needs housing, and based on quantifiable evidence, the use is not likely to require the same levels of parking as standard residential development. This finding shall only be used for projects that have entered into a binding agreement with the city or other public agency guaranteeing the project will serve the identified tenancy type.
- iv. Due to the availability of on-street parking, the guest parking requirement for the project will be lower than a development where adequate on-street parking is not provided. This finding shall only be used to lower the guest parking requirement, and not the resident parking requirement.

- (3) Dwellings, secondary--1 space.
- (4) Mobile home--2 per mobile home space.
- (5) Mobile home park community building--1 per 10 mobile home spaces.
- (6) Mobile home park visitor parking--1 per 5 mobile home spaces located no further than 400 feet from the mobile home spaces to be served.
- ~~(7) Rooming houses and lodging houses--1 for each guest room.~~

## **Section 15:**

Article 21 (Sign Regulations) of Chapter 2 (Zoning), Title VIII (Planning and Zoning) of the Fremont Municipal Code is added to and amended to read as follows:

### **ARTICLE 21. SIGN REGULATIONS**

#### **Sec. 8-22104. Residential Districts.**

- (A) Lot Identification.

- (1) Residential dwellings:
- (a) Permanent sign: One sign containing appurtenant sign copy may be allowed for each developed residential lot to identify the premises or occupants thereof, except that in an R-G or R-3 district any through or corner lot developed with a multiple dwelling may be allowed an additional sign for each street frontage of such lot. Each such sign may be allowed a sign area up to one square foot per dwelling unit; provided, that in the case of a multiple dwelling no single such sign shall exceed eighteen square feet in sign area, and, provided further, that no sign shall be allowed for any home occupation. Such signs may be integral with a building or in the case of a multiple dwelling may be affixed to the ground in the front yard of the lot provided that the top of the sign does not exceed a height of six feet from the finished grade of the lot. Illumination, if any, shall be maintained by diffused or indirect light that is stationary and constant in intensity and color at all times (non-flashing). Sign copy advertising lease or rental of a dwelling unit may be included on such permanent sign.

Permanent signs shall also be allowed in an R-3 district for live/work units<sup>1, 3</sup> when permitted through a conditional use permit and subject to a planned sign program and all other provisions of this Article.

## Section 16:

Article 21.3 (Special Provisions Applying to Miscellaneous Uses) of Chapter 2 (Zoning), Title VIII (Planning and Zoning) of the Fremont Municipal Code is added to and amended to read as follows:

### ARTICLE 21.3. SPECIAL PROVISIONS APPLYING TO MISCELLANEOUS USES

#### **Sec. 8-22135. Condominium, community apartment, stock cooperative and townhouse conversion projects.**

- (a) *"Project" defined.* As used in this section, a "project" consists of ~~either: the conversion of dwelling units on a single lot to a condominium, community apartment, townhouse or stock cooperative form of ownership.~~
- ~~(1) The construction of condominiums, community apartments, townhouses or buildings to be held by stock cooperatives; or~~
- ~~(2) The conversion of dwelling units on a single lot to the condominium, community apartment, townhouse or stock cooperative form of ownership.~~
- (b) *Findings; purpose.*
- (1) There is insufficient assurance of guaranteed effective and continuous centralized management of each project to which this section applies. There is insufficient assurance of adequate construction performance standards relating to multiple-unit structures, concerning such matters as noise transmission between units. Such matters, if not given sufficient consideration, may create and perpetuate conditions having an especially deleterious effect upon the occupants of units of such projects. These pernicious effects may be especially magnified because the occupants, as owners of the units, may be less freely able to transfer ownership to others. This is particularly true when undesirable conditions exist. It is hereby found that each such project presents special land use problems ~~involving potential slum and blight conditions which that~~ would be detrimental to the public health, safety, welfare and economic prosperity of the community.

- (2) It is the purpose of the provisions of this section to attempt to assure that housing is provided to accommodate the needs of all people desiring to reside in the city. This section is enacted:
- a. To ensure that projects meet desirable physical and visual standards;
  - b. To ensure the performance of a viable maintenance responsibility for the structures, common spaces and facilities, and to promote residential stability and diversity by encouraging neighborhood maintenance;
  - c. To ensure that conversion projects are consistent with the housing element of the general plan and with state law;
  - d. To provide ~~apartment~~ tenants with adequate data relating to displacement and relocation as a result of conversion;
  - e. To ensure that purchasers of dwelling units or rights to exclusive occupancy thereof in conversion projects are informed as to the physical conditions of the structure and on-site facilities.
- (c) *Conditional use permit required.* No project shall be established, undertaken, operated, set up, enlarged or maintained unless and until a conditional use permit therefore shall have been obtained. No such permit shall be issued unless the applicable zoning district regulations otherwise allow multiple occupancy for the uses requested, upon a single parcel of land, and unless the project is in conformance with the provisions of subsection (d) hereof.
- (d) *Project applications.*
- ~~(1) Conversion projects shall be accomplished only through a public hearing process. The applicant shall submit a list of names and addresses of all tenants within the project area and of property owners within three hundred feet of the property which is the subject of the project, along with stamped and addressed envelopes.~~
- (2) Each project application shall include the following, prepared by a California-licensed land surveyor or architect :
- a. Site plans showing the property boundary, existing topography of the site, and the location of all existing easements, structures, parking, trash enclosures, and other improvements.
  - b. A list showing the percentages of open space, building coverage, parking, and circulation areas and number of parking spaces, covered and open, reserved and guest.
  - c. Scaled development plans showing typical floor plans and building elevations.
  - d. A full disclosure inspection document ~~prepared by a California-licensed structural civil engineer or architect. Such document shall evaluate~~ the physical conditions of the development; such as foundation, wall section and sound insulation, including any deficiencies in electrical, plumbing and structure, pest damages, smoke detectors, mechanical equipment, and isolation and security regulations standards, together with recommendations relating thereto in order to assure their continued viability for a minimum of five years.
  - e. A statement of repairs, improvements and architectural changes the applicant plans to make before conveyance of the units.

~~f. A soils report, if not previously prepared, in compliance with the provisions of the Subdivision Map Act.~~

(32) All projects shall conform to the following requirements:

- a. The provisions of Article 20 of this chapter relating to off-street parking and loading, and with the development policy for private vehicle access ways in effect at the time of approval of the project.
- b. A homeowners' association shall be established. It shall assume continual maintenance responsibility for all common areas, landscaping, plumbing, fire protection water system, wiring, utility charges and exterior of the buildings. ~~Where the project consists of twenty or more dwelling units, the association shall be required to contract with a professional management firm to handle management operations and collection procedures. A professional management firm shall mean a business entity which is accredited as a property management organization or an individual who is certified as a property manager, indicating competency in managing a condominium or other project within the scope of this section.~~
- c. All electrical and mechanical equipment shall conform to the applicable city codes at the time of approval of the project.
- d. The interior and exterior sound transmission standards shall be those in effect at the time of project approval, pursuant to the Housing Code (Title 25, California Administrative Code) and Chapter 1, Article 5 of Title VIII of this Code (subdivision ordinance).
- e. Smoke detectors in individual units and in common hallways shall be installed, subject to approval of the ~~fire department~~ city's building and safety division.
- f. Provision for a one-year warranty on all appliances in each unit, and on all electrical, heating, air conditioning, plumbing, ventilation equipment and elevators.
- g. Provisions for one hundred cubic feet of storage space for each unit, excluding dwelling unit closet space, subject to approval of the development organization. Exterior storage space shall be waterproof and lockable.
- h. Central refuse and recyclable collection facilities shall be provided in accordance with section 8-22155. The maintenance of such facilities and the payment of the refuse and recyclable collection fees shall be the responsibility of the homeowner's association.
- ~~i. Adaptable units for the physically disabled shall be provided. For purposes of this requirement, the development policy for adaptable housing in condominium projects shall apply. This requirement shall apply to projects for which use permit applications were received after September 11, 1985.~~

~~(4) In addition, all conversion projects shall conform to the following requirements:~~

- ~~bj. Open space and recreational areas shall conform to the R-G district regulations in effect at the time of approval of the project. All exterior common areas shall be refurbished to a condition acceptable to the public works director.~~

- ej. Necessary repairs of roofs and exteriors of the buildings shall be made to ensure a minimum maintenance-free period of five years from the date of project approval.
- ek. Each dwelling unit shall have ~~its own~~ separate gas and electric metering. The commission may waive this requirement if it determines that the benefit of such separate metering is insignificant compared to the total merit of a project, and if the ~~chief~~ building official has found such separate metering to be infeasible.
- el. All permanent mechanical equipment, including domestic appliances, which the ~~chief~~ building official determines to be a source of vibration or noise, shall be shock-mounted and isolated from the floor and ceiling to minimize the transmission of vibration and noise in order to meet the standards set forth in the Housing Code (Title 25, California Administrative Code).
- fm. All buildings in the project shall be modified to comply with the building security regulations set forth in the Chapter 2 of Title VII this Code ~~Chapter 44 of the Uniform Building Code~~.
- gn. The applicant shall provide relocation information consisting of data indicating the current and continually available, competitively priced, decent, safe and sanitary dwelling units within the tri-cities area (Fremont, Newark and Union City). The number of available dwelling units shall be sufficient to assure accommodation of such displaced tenants. This requirement shall not be applicable if the director of planning determines, on the basis of a representative sampling of apartment buildings conducted by the city, that the city-wide apartment vacancy rate exceeds five percent. Any such representative sampling used shall not be more than ninety days old.
- ho. The applicant shall give the tenants written notice of intention to convert to the condominium, community apartment, stock cooperative, or townhouse form of ownership and shall offer exclusive rights to purchase their respective units or appropriate property interests as required pursuant to Government Code Section 66427.1. The notice requirement of said section shall be applicable to stock cooperative and townhouse conversions, and the contractual right to purchase provisions thereof shall be construed to apply to purchase of the appropriate property interests in stock cooperatives and townhouses for purposes of this section. The applicant shall be required to comply with State Law as applicable at the time of project approval.

- (53) No conversion project shall be approved by the commission if the director of planning determines, on the basis of a representative sampling of apartment buildings conducted by the city, that the city-wide apartment vacancy rate is less than three percent. The apartment vacancy rate in effect at the time a complete application of a project is accepted for filing, shall be applicable in the commission's consideration of the project. Any such representative sampling shall not be more than ninety days old.

~~(e) Information and documents to be furnished to potential or actual purchasers. The applicant for a project shall provide the following information and documents to all potential and actual purchasers:~~

- ~~(1) A summary of the proposed range of sales prices for each unit, including any favorable terms to the present tenants;~~
- ~~(2) A list of all services and facilities proposed to be furnished to individual owners, and a statement of all fees and conditions applicable to the use of such services and facilities;~~

- (3) ~~— A statement of the estimated annual operating and maintenance costs for all common facilities reviewed or prepared by a professional management firm familiar with operating and maintenance costs of similar property in the area, together with a recommendation of said management firm;~~
- (4) ~~— A termite inspection report;~~
- (5) ~~— Any proposed deed restrictions.~~
- (f) ~~— *Notice to tenants.* The owner of a project approved as a condominium project shall give all new tenants written notice of approval to convert to the condominium form of ownership.~~
- (g) ~~— *Applicability of zoning district regulations.* Except as provided in this section, any use of a structure, lot or parcel, otherwise allowed pursuant to the regulations applicable in the particular zoning district involved, shall not be treated differently because the ownership thereof is divided or established by the sale or creation or use of community apartments, condominiums, stock cooperatives or townhouses, rather than by lease of apartments, offices or stores.~~

**Sec. 8-22135.05. Condominium, community apartment, stock cooperative and townhouse projects; homeowner's association requirements.**

For any project consisting of the construction or conversion of condominiums, community apartments, townhouses, or buildings to be held by stock cooperatives, a homeowners association shall be formed subject to the review and approval of the City. For any project consisting of twenty or more dwelling units, the association shall be required to contract with a professional management firm to handle management operations and collection procedures. A professional management firm shall mean a business entity that is accredited as a property management organization or an individual who is certified as a property manager, indicating competency in managing a condominium or other project within the scope of this section.

**Sec. 8-22147.7. Live/work units.**

Live/work units consisting of both commercial and residential components within a single unit, which are used as the primary dwellings by the occupant(s), shall be subject to the following special provisions:

- (a) All commercial uses in live/work developments shall be subject to the following performance criteria:
  - (1) Signs shall be limited to those approved as part of a planned sign program for the project;
  - (2) Businesses shall not involve the use of hazardous materials or produce medical or hazardous waste, except that de minimus amounts of essential hazardous materials will be subject to the review and approval of the Fremont Fire Department. Specific conditions, as well as permitting, disclosure, and periodic inspection requirements will be a part of any approval granted. Classes of materials that are prohibited include: Class 1-A flammable liquids, pyrophoric, unstable, reactive, toxic, highly toxic, or explosive materials, including fireworks and small arms ammunition; flammable, combustible, corrosive or oxidizing solids, liquids and gases; organic peroxides and cryogenics;
  - (3) No business that involves the use of prescription drugs shall be allowed; and
  - (4) Adult-oriented businesses<sup>1</sup>, astrology<sup>1</sup>, palmistry, massage<sup>1</sup>, head shops<sup>1</sup>, and similar uses shall not be allowed.
- (b) Project conditions of approval shall specify allowed uses for live/work units in conformance with the above criteria; and



- (c) At least one tenant of each live/work unit shall obtain and keep current a City of Fremont business license, including an inventory of any hazardous materials used or stored, for a business based at the live/work address.

**Sec. 8-22160.5. Short term residency sShelter for the homeless, permanent sites.**

Permanent sites, as defined in this chapter, shall be allowed in R-3, R-G, C-O, C-N, C-C, C-T, C-G, I-L, I-R and G-I districts ~~except in an (F-W) or (F) overlay district~~, subject to the following requirements:

**Sec. 8-22160.6. Short term residency sShelter for the homeless, temporary sites.**

- (a) Public or quasi-public organizations operating a temporary short term residency shelter<sup>1</sup> ~~facility for the homeless~~ may be permitted on any developed lot in R-1, R-2, R-3, R-G, C-O, C-N, C-C, C-T, C-G, I-L, I-R and G-I districts as an accessory use to a public or quasi-public use, ~~except in an (F-W) or (F) overlay district~~, provided a permit has been obtained pursuant to this section. Such uses shall have frontage on a street of sufficient capacity to carry anticipated traffic. Temporary short term residency shelters for the homeless to be placed in the R-1 and R-2 districts shall be on lots having a minimum area of one acre. The criteria to determine the number of individuals which can be accommodated on the site shall be as follows:
- (c) Temporary short term residency shelters for the homeless shall be subject to the review and approval of the planning commission for a conditional use permit.
- ~~(e) — No permit shall be issued for a period to exceed one year.~~